

REMARKS

In the final Office Action¹, the Examiner rejected claims 1-6 under 35 U.S.C. § 112, first paragraph; and rejected claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by Iwasaki et al. (JP 2001-238674, hereafter "Iwasaki") as evidenced by Fodor et al. (*Science*, vol. 251, pp. 767-773 (1991), hereafter "Fodor"), or alternatively, under 35 U.S.C. § 103(a) as being obvious over Iwasaki in view of Fodor.

By this Amendment, Applicant amends claim 1. Support for the claim amendments can be found in the Specification at, for example, paragraphs [0040] and [0041] of this published application. Claims 1-6 remain pending and under consideration.

Applicant has amended claim 1 to remove the recitation of "spacer module." Accordingly, Applicant respectfully request withdrawal of the rejection of claims 1-6 under 35 U.S.C. § 112, first paragraph.

Applicant respectfully traverses the rejection of claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by Iwasaki as evidenced by Fodor, or alternatively, under 35 U.S.C. § 103(a) as being obvious over Iwasaki in view of Fodor.

Claim 1, as amended, recites "a bioassay substrate having a disc-shape . . . , the bioassay substrate comprising a plurality of detection units equally dividing the bioassay substrate in a circumferential direction, each detection unit comprising: a data-detecting area . . . having a first length in the radial direction; and a servo area . . . having a

¹ The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

second length in the radial direction approximately equal to the first length," (emphasis added). Iwasaki and Fodor, alone or combined, fail to teach or suggest all the elements recited in amended claim 1.

Iwasaki, at paragraph [0049], discloses,

In the surface of the layer 8 of glass, two or more spots 9 by which the DNA probe is fixed along with the tracking mark 7 are arranged spirally. Drawing 2 is a figure showing the spot of the single tier of the length direction of the arrangement between the tracking marks of drawing 1 (b) in a ** type. In drawing 2, the number in the spot 9 is a number which shows the turn of arrangement. An address mark and the 64 spots 9 are arranged in one division. Thus, the division of the spot 9 is carried out in the length direction of arrangement, and it has an address mark for every division. And the address marks for every division differ mutually.

(Emphasis added). Accordingly, Iwasaki merely discloses that sixty-four spots 9 and one address mark 6 are formed in one division along a longitudinal direction. For at least this reason, Iwasaki does not teach or suggest "a bioassay substrate having a disc-shape . . . , the bioassay substrate comprising a plurality of detection units equally dividing the bioassay substrate in a circumferential direction, each detection unit comprising: a data-detecting area . . . having a first length in the radial direction; and a servo area . . . having a second length in the radial direction approximately equal to the first length," as recited in amended claim 1 (emphasis added).

Further, Iwasaki, at paragraph [0004], discloses, "the size of one spot is about 20-200 micrometers," (emphasis added), and at paragraph [0048], discloses, "[t]he pitch of the tracking mark 5 is 25 micrometers, and the level differences of the address mark 6 are about 1/4 of the wavelength of the light source used for read-out of an address," (emphasis added). Accordingly, Iwasaki does not teach or suggest a combination comprising "a data-detecting area . . . having a first length in the radial direction; and a

servo area . . . having a second length in the radial direction approximately equal to the first length," as recited in amended claim 1 (emphasis added).

The Examiner cited Fodor as allegedly teaching a spacer molecule. Accordingly, Fodor fails to cure the deficiencies of Iwasaki.

For at least the above reasons, claim 1 distinguishes over Iwasaki and Fodor. Claims 2-6 depend from claim 1 and thus distinguish over Iwasaki and Fodor at least due to their dependence.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing this application in condition for allowance.

Alternatively, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 11, 2008

By: 

Michael R. Kelly
Reg. No. 33,921